

CLERK US DISTRICT COURT  
NORTHERN DIST. OF TX  
FILED

ORIGINAL

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

2010 DEC 20 PM 1:05

DARIN CYPHERS

DEPUTY CLERK

VS.

CIVIL ACTION NO.

**8-10CV2589-P**  
JURY TRIAL DEMANDED

TEXAS COMPETITIVE ELECTRIC  
HOLDINGS COMPANY, LLC d/b/a  
TXU ENERGY

ORIGINAL COMPLAINT

JURISDICTION

1. The jurisdiction of this Court attains pursuant to the Fair Credit Reporting Act, 15 U.S.C. §1681(p) ("FCRA") afor which jurisdiction is proper in this Court. Venue lies in the Dallas Division of the Northern District of Texas as Plaintiff's claims arose from acts of the Defendant perpetrated therein.

PARTIES

2. Plaintiff, Darin Cyphers, is a natural person who resides in Tarrant County, Texas and is a "consumer" as defined by 15. U.S.C. §1681a(c) of the FCRA. Plaintiff is a resident and citizen of the State of Texas.

3. Defendant, Texas Competitive Electric Holdings Company, LLC d/b/a TXU Energy, is a corporation organized under the laws of the State of Delaware, registered to conduct business in Texas and may be served with process by serving its registered agent for service of process: CT Corporation System, 350 N. St. Paul St., Suite 2900, Dallas, Texas 75201.

FACTUAL ALLEGATIONS

4. Plaintiff does not owe the alleged account reported by TXU Energy on Plaintiff's credit report.

5. Plaintiff has disputed this report, in writing, on numerous occasions with each credit reporting agency and directly with TXU Energy.

6. Defendant repeatedly verified the false report of the alleged debt.
7. Despite the written dispute, the inaccurate debt continued to be reported on Plaintiff's credit report.
8. Defendant refused to request deletion of the account from Plaintiff's credit report.

## CAUSES OF ACTION

### COUNT I

9. Plaintiff realleges and incorporates paragraphs 1 through 8 above as if fully set out herein.
10. TXU Energy violated the Fair Credit Reporting Act, 15 U.S.C. §1681s-2(b) by publishing the TXU Energy account representation within Plaintiff's credit file with one or more credit reporting agencies without also including a notation that this debt was disputed; by failing to fully and properly investigate the Plaintiff's dispute of the TXU Energy representation; by failing to review all relevant information regarding same; by failing to correctly report results of an accurate investigation to each credit reporting agency; and by failing to permanently and lawfully correct its own internal records to prevent the reporting of the TXU Energy representations to the consumer reporting agencies.
11. TXU Energy violated the Fair Credit Reporting Act §1681s-2(a)(3) by failing to report on Plaintiff's credit report that the debt was disputed.
12. Defendant violated The Fair Credit Reporting Act, 15. U.S.C. §1681c(a)(4) by reporting a debt which antedates the report for approximately 10 years.
13. As a result of this conduct, action and inaction of TXU Energy, the Plaintiff suffered damage by loss of credit, loss of the ability to purchase and benefit from credit, the mental and emotional pain and anguish and the humiliation and embarrassment of credit denials.
14. TXU Energy's conduct, action and inaction was willful, rendering it liable for actual or statutory and punitive damages in an amount to be determined by the Court pursuant to 15

U.S.C. §1681n. In the alternative, it was negligent, entitling the Plaintiff to recover actual damages under 15 U.S.C. §1681o.

15. The Plaintiff is entitled to recover costs and attorney fees from TXU Energy in an amount to be determined by the Court pursuant to 15 U.S.C. §1681n and §1681o.

### COUNT III

16. Plaintiff realleges and incorporates paragraphs 1 through 15 above.

17. Pursuant to Tex. Fin. Code §392.404, the Defendant's violations of the Texas Debt Collection Practices Act also constitute a deceptive trade practice, Subchapter E, Chapter 17, Business and Commerce Code ("DTPA"), and is actionable under that chapter.

18. The foregoing acts and omissions were undertaken on behalf of the Defendant by its respective officers, agents, or employees acting at all times relevant hereto within the scope of that relationship.

19. The foregoing acts and omissions of the Defendant were undertaken wilfully, intentionally, knowingly, and/or in gross disregard of the rights of the Plaintiff.

20. The foregoing acts and omissions of the Defendants were undertaken indiscriminately and persistently, as part of its regular and routine collection efforts, and without regard to or consideration of the identity of rights of the Plaintiff.

21. By reason of the allegations in this petition, the Texas Debt Collection Practices Act and Fair Credit Reporting Act, Plaintiff is entitled to recover attorney's fees in a sum that is reasonable in relation to the amount of work expended for which Plaintiff sues herein. The attorney whose name is subscribed to this pleading has been employed to assist Plaintiff in the prosecution of this action.

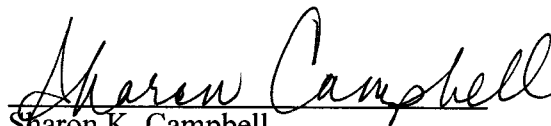
Defendant has violated §392.301 & 392.304 by their actions as described in this complaint.

WHEREFORE, your Plaintiff demands judgment for compensatory and punitive damages against Defendant; for his attorney fees and costs; for pre-judgment and post-judgment interest at the

legal rate, and such other relief the Court does deem just, equitable and proper.

**TRIAL BY JURY IS DEMANDED.**

Respectfully submitted,

A handwritten signature in cursive script that reads "Sharon Campbell". The signature is written in black ink and is positioned above the printed contact information.

Sharon K. Campbell  
State Bar # 03717600  
3100 Monticello Ave., Suite 500  
Dallas, Texas 75205  
Telephone: 214/351-3260  
Fax: 214/378-6670  
Sharon@SharonKCampbell.com

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS  
Darin Cyphers

## DEFENDANTS

Texas Competitive Electric Holdings Company, LLC d/b/a  
TXU Energy

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Sharon K. Campbell

3100 Monticello Ave., Suite 500, Dallas, Texas 75205

214-351-3260

U.S. DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS

3-10CV2589-P

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☐ 1 PTF ☐ 1 DEF
- Citizen of Another State ☐ 2 PTF ☐ 2 DEF
- Citizen or Subject of a Foreign Country ☐ 3 PTF ☐ 3 DEF
- Incorporated or Principal Place of Business In This State ☐ 4 PTF ☐ 4 DEF
- Incorporated and Principal Place of Business In Another State ☐ 5 PTF ☐ 5 DEF
- Foreign Nation ☐ 6 PTF ☐ 6 DEF

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

| CONTRACT   | TORTS  | FORFEITURE/PENALTY   | BANKRUPTCY  | OTHER STATUTES  |
|--|--|--|---|---|
| <input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability<br><input type="checkbox"/> 196 Franchise | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Federal Employers' Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input type="checkbox"/> 360 Other Personal Injury<br><b>PERSONAL INJURY</b><br><input type="checkbox"/> 362 Personal Injury - Med. Malpractice<br><input type="checkbox"/> 365 Personal Injury - Product Liability<br><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability<br><b>PERSONAL PROPERTY</b><br><input type="checkbox"/> 370 Other Fraud<br><input type="checkbox"/> 371 Truth in Lending<br><input type="checkbox"/> 380 Other Personal Property Damage<br><input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 610 Agriculture<br><input type="checkbox"/> 620 Other Food & Drug<br><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 630 Liquor Laws<br><input type="checkbox"/> 640 R.R. & Truck<br><input type="checkbox"/> 650 Airline Regs.<br><input type="checkbox"/> 660 Occupational Safety/Health<br><input type="checkbox"/> 690 Other<br><b>LABOR</b><br><input type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Mgmt. Relations<br><input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input type="checkbox"/> 791 Empl. Ret. Inc. Security Act<br><b>IMMIGRATION</b><br><input type="checkbox"/> 462 Naturalization Application<br><input type="checkbox"/> 463 Habeas Corpus - Alien Detainee<br><input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><b>PROPERTY RIGHTS</b><br><input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input type="checkbox"/> 840 Trademark<br><b>SOCIAL SECURITY</b><br><input type="checkbox"/> 861 HIA (1395ff)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DIWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RSI (405(g))<br><b>FEDERAL TAX SUITS</b><br><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input type="checkbox"/> 480 Consumer Credit<br><input type="checkbox"/> 490 Cable/Sat TV<br><input type="checkbox"/> 810 Selective Service<br><input type="checkbox"/> 850 Securities/Commodities/Exchange<br><input type="checkbox"/> 875 Customer Challenge 12 USC 3410<br><input checked="" type="checkbox"/> 890 Other Statutory Actions<br><input type="checkbox"/> 891 Agricultural Acts<br><input type="checkbox"/> 892 Economic Stabilization Act<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 894 Energy Allocation Act<br><input type="checkbox"/> 895 Freedom of Information Act<br><input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice<br><input type="checkbox"/> 950 Constitutionality of State Statutes |

## V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. 1681 Fair Credit Reporting Act

Brief description of cause:

Reporting of accounts which are not accurate and past the allowed time for reporting

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) (See instructions)

PENDING OR CLOSED:

JUDGE

DOCKET NUMBER

DATE  
12/20/2010

SIGNATURE OF ATTORNEY OF RECORD

Sharon Campbell

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_